shall publish in the Federal Register a revised notice of the intent, and shall provide for a comment period, as provided in clauses (i) and (ii).

''(II) MATERIAL CHANGE DEFINED.—In subclause (I), the term 'material change', with respect to an application, includes—

''(aa) a change of at least 25 percent in the amount of a loan or guarantee requested in the application; and

''(bb) a change in the principal product to be produced as a result of any transaction that would be facilitated by the provision of the loan or guarantee.

''(C) REQUIREMENT TO ADDRESS VIEWS OF ADVERSELY AFFECTED PERSONS.—Before taking final action on an application for a loan or guarantee to which this section applies, the staff of the Bank shall provide in writing to the Board of Directors the views of any person who submitted comments pursuant to subparagraph (B).

''(D) PUBLICATION OF CONCLUSIONS.—Within 30 days after a party affected by a final decision of the Board of Directors with respect to a loan or guarantee makes a written request therefor, the Bank shall provide to the affected party a non-confidential summary of the facts found and conclusions reached in any detailed economic impact analysis or similar study conducted pursuant to subparagraph (B) with respect to the loan or guarantee, that were submitted to the Board of Directors.

''(E) RULE OF INTERPRETATION.—This paragraph shall not be construed to make subchapter II of chapter 5 of title 5, United States Code, applicable to the Bank.

''(F) REGULATIONS.—The Bank shall implement such regulations and procedures as may be appropriate to carry out this paragraph.''.

(b) CONFORMING AMENDMENT.—Section 2(e)(2)(C) of such Act (12 U.S.C. 635(e)(2)(C)) is amended by inserting ''of not less than 14 days (which, on request of any affected party, shall be extended to a period of not more than 30 days)'' after ''comment period''.

SEC. 9. AGGREGATE LOAN, GUARANTEE, AND INSURANCE AUTHORITY.

Subparagraph (E) of section 6(a)(2) of the Export-Import Bank Act of 1945 (12 U.S.C. 635e(a)(2)) is amended to read as follows:

''(E) during fiscal year 2006, and each fiscal year thereafter through fiscal 2011.''.

SEC. 10. TIED AID CREDIT PROGRAM.

Section 10(b)(5)(B)(ii) of the Export-Import Bank Act of 1945 (12 U.S.C. 635i–3(b)(5)(B)(ii)) is amended to read as follows:

''(ii) PROCESS.—In handling individual applications involving the use or potential use of the Tied Aid Credit Fund the following process shall exclusively apply pursuant to subparagraph (A):

''(I) The Bank shall process an application for tied aid in accordance with the principles and standards developed pursuant to subparagraph (A) and clause (i) of this subparagraph.

''(II) Twenty days prior to the scheduled meeting of the Board of Directors at which an application will be considered (unless the Bank determines that an earlier discussion is appropriate based on the facts of a particular financing), the Bank shall brief the Secretary on the application and deliver to the Secretary such documents, information, or data as may reasonably be necessary to permit the Secretary to review the application to determine if the application complies with the principles and standards developed pursuant to subparagraph (A) and clause (i) of subparagraph (B).

''(III) The Secretary may request a single postponement of the Board of Directors' consideration of the application for up to 14 days to allow the Secretary to submit to the Board of Directors a memorandum objecting to the application.

''(IV) Case-by-case decisions on whether to approve the use of the Tied Aid Credit Fund shall be made by the Board of Directors, except that the approval of the Board of Directors (or a commitment letter based on that approval) shall not become final (except as provided in subclause (V)), if the Secretary indicates to the President of the Bank in writing the Secretary's intention to appeal the decision of the Board of Directors to the President of the United States and makes the appeal in writing not later than 20 days after the meeting at which the Board of Directors considered the application.

''(V) The Bank shall not grant final approval of an application for any tied aid credit (or a commitment letter based on that approval) if the President of the United States, after consulting with the President of the Bank and the Secretary, determines within 30 days of an appeal by the Secretary under subclause (IV) that the extension of the tied aid credit would materially impede achieving the purposes described in subsection (a)(6). If no such Presidential determination is made during the 30-day period, the approval by the Bank of the application (or related commitment letter) that was the subject of such appeal shall become final.''.

SEC. 11. PROHIBITION ON ASSISTANCE TO DEVELOP OR PROMOTE CERTAIN RAILWAY CONNECTIONS AND RAILWAY-RELATED CONNECTIONS.

Section 2(b) of the Export-Import Act of 1945 (12 U.S.C. 635(b)) is amended by adding at the end the following new paragraph:

''(13) PROHIBITION ON ASSISTANCE TO DEVELOP OR PROMOTE CERTAIN RAILWAY CONNECTIONS AND RAILWAY-RELATED CONNECTIONS.—The Bank shall not guarantee, insure, or extend (or participate in the extension of) credit in connection with the export of any good or service relating to the development or promotion of any railway connection or railway-related connection that does not traverse or connect with Armenia and does traverse or connect Baku, Azerbaijan, Tbilisi, Georgia, and Kars, Turkey.''.

CONVENTION ON SUPPLEMENTARY COMPENSATION FOR NUCLEAR DAMAGE CONTINGENT COST ALLOCATION ACT

Mr. FRIST. I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 636, S. 3879.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 3879) to implement the Convention on Supplementary Compensation for Nuclear Damage and other purposes.

There being no objection, the Senate proceeded to consider the bill (S. 3879), to implement the Convention on Supplementary Compensation for Nuclear Damage, and for other purposes, which had been reported from the Committee on Environment and Public Works, with amendments, as follows:

(The parts of the bill or joint resolution intended to be stricken are shown in boldface brackets and the parts of the bill or joint resolution intended to be inserted are shown in italic.)

S. 3879

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Convention on Supplementary Compensation for Nuclear Damage Contingent Cost Allocation Act''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) (commonly known as the ''Price-Anderson Act'')—

(A) provides a predictable legal framework necessary for nuclear projects; and

(B) ensures prompt and equitable compensation in the event of a nuclear incident in the United States;

(2) section 170 of that Act, in effect, provides operators of nuclear powerplants with insurance for damage arising out of a nuclear incident and funds the insurance primarily through the assessment of a retrospective premium from each operator after the occurrence of a nuclear incident;

(3) the Convention on Supplementary Compensation for Nuclear Damage, done at Vienna on September 12, 1997, will establish a global system—

(A) to provide a predictable legal framework necessary for nuclear energy projects; and

(B) to ensure prompt and equitable compensation in the event of a nuclear incident;

(4) the Convention benefits United States nuclear suppliers that face potentially unlimited liability for a nuclear incidents outside the coverage of section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) by replacing a potentially open-ended liability with a predictable liability regime that, in effect, provides nuclear suppliers with insurance for damage arising out of such an incident;

(5) the Convention also benefits United States nuclear facility operators that may be publicly liable for a Price-Anderson incident by providing an additional early source for a Price-Anderson incident by providing an additional early source of funds to compensate damage arising out of the Price-Anderson incident;

(6) the combined operation of the Convention, section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210), and this Act will augment the quantity of assured funds available for victims in a wider variety of nuclear incidents while reducing the potential liability of United States suppliers without increasing potential costs to United States operators;

(7) the cost of those benefits is the obligation of the United States to contribute to the supplementary compensation fund established by the Convention;

(8) any such contribution should be funded in a manner that neither upsets settled expectations based on the liability regime established under section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) nor shifts to Federal taxpayers liability risks for nuclear incidents at foreign installations;

(9) with respect to a Price-Anderson incident, funds already available under section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) should be used; and

(10) with respect to a nuclear incident *outside the United States* not covered by section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210), a retrospective premium should be prorated among nuclear suppliers relieved from potential liability for which insurance is not available.

(b) PURPOSE.—The purpose of this Act is to allocate the contingent costs associated with participation by the United States in the international nuclear liability compensation system established by the Convention on Supplementary Compensation for Nuclear Damage, done at Vienna on September 12, 1997—

(1) with respect to a Price-Anderson incident, by using funds made available under section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) to cover the contingent costs in a manner that neither increases the burdens nor decreases the benefits under section 170 of that Act; and

(2) with respect to a covered incident *outside the United States* that is not a Price-Anderson incident, by allocating the contingent costs equitably, on the basis of risk, among the class of nuclear suppliers relieved by the Convention from the risk of potential liability resulting from any covered incident *outside the United States*.

SEC. 3. DEFINITIONS.

In this Act:

(1) COMMISSION.—The term ''Commission'' means the Nuclear Regulatory Commission.

(2) CONTINGENT COST.—The term ''contingent cost'' means the cost to the United States in the event of a covered incident the amount of which is equal to the amount of funds the United States is obligated to make available under paragraph 1(b) of Article III of the Convention.

(3) CONVENTION.—The term ''Convention'' means the Convention on Supplementary Compensation for Nuclear Damage, done at Vienna on September 12, 1997.

(4) COVERED INCIDENT.—The term ''covered incident'' means a nuclear incident the occurrence of which results in a request for funds pursuant to Article VII of the Convention.

(5) COVERED INSTALLATION.—The term ''covered installation'' means a nuclear installation at which the occurrence of a nuclear incident could result in a request for funds under Article VII of the Convention.

(6) COVERED PERSON.—

(A) IN GENERAL.—The term ''covered person'' means—

(i) a United States person; and

(ii) an individual or entity (including an agency or instrumentality of a foreign country) that—

(I) is located in the United States; or

(II) carries out an activity in the United States.

(B) EXCLUSIONS.—The term ''covered person'' does not include—

(i) the United States; or

(ii) any agency or instrumentality of the United States.

(7) NUCLEAR SUPPLIER.—The term ''nuclear supplier'' means a covered person (or a successor in interest of a covered person) that—

(A) supplies facilities, equipment, fuel, services, or technology pertaining to the design, construction, operation, or decommissioning of a covered installation; or

(B) transports nuclear materials that could result in a covered incident.

(8) PRICE-ANDERSON INCIDENT.—The term ''Price-Anderson incident'' means a covered incident for which section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) would make funds available to compensate for public liability (as defined in section 11 of that Act (42 U.S.C. 2014)).

(9) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(10) UNITED STATES.—

(A) IN GENERAL.—The term ''United States'' has the meaning given the term in section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014).

(B) INCLUSIONS.—The term ''United States'' includes—

(i) the Commonwealth of Puerto Rico;

(ii) any other territory or possession of the United States;

(iii) the Canal Zone; and

(iv) the waters of the United States territorial sea under Presidential Proclamation Number 5928, dated December 27, 1988 (43 U.S.C. 1331 note).

(11) UNITED STATES PERSON.—The term ''United States person'' means—

(A) any individual who is a resident, national, or citizen of the United States (other than an individual residing outside of the United States and employed by a person who is not a United States person); and

(B) any corporation, partnership, association, joint stock company, business trust, unincorporated organization, or sole proprietorship that is organized under the laws of the United States.

SEC. 4. USE OF PRICE-ANDERSON FUNDS.

(a) IN GENERAL.—Funds made available under section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) shall be used to cover the contingent cost resulting from any Price-Anderson incident.

(b) EFFECT.—The use of funds pursuant to subsection (a) shall not reduce the limitation on public liability established under section 170 e. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(e)).

SEC. 5. EFFECT ON AMOUNT OF PUBLIC LIABILITY.

(a) IN GENERAL.—Funds made available to the United States under Article VII of the Convention with respect to a Price-Anderson incident shall be used to satisfy public liability resulting from the Price-Anderson incident.

(b) AMOUNT.—The amount of public liability allowable under section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) relating to a Price-Anderson incident under subsection (a) shall be increased by an amount equal to the difference between—

(1) the amount of funds made available for the Price-Anderson incident under Article VII of the Convention; and

(2) the amount of funds used under section 4 to cover the contingent cost resulting from the Price-Anderson incident.

SEC. 6. RETROSPECTIVE RISK POOLING PROGRAM.

(a) IN GENERAL.—Except as provided in subsection (b), each nuclear supplier shall participate in a retrospective risk pooling program in accordance with this Act to cover the contingent cost resulting from a covered incident *outside the United States* that is not a Price-Anderson incident.

(b) DEFERRED PAYMENT.—

(1) IN GENERAL.—The obligation of a nuclear supplier to participate in the retrospective risk pooling program shall be deferred until the United States is called on to provide funds pursuant to Article VII of the Convention with respect to a covered incident that is not a Price-Anderson incident.

(2) AMOUNT OF DEFERRED PAYMENT.—The amount of a deferred payment of a nuclear supplier under paragraph (1) shall be based on the risk-informed assessment formula determined under paragraph (3).

(3) RISK-INFORMED ASSESSMENT FORMULA.—

(A) IN GENERAL.—**[**The**]** *Not later than 3 years after the date of enactment of this Act, and every 5 years thereafter, the* Secretary shall, by regulation, determine the risk-informed assessment formula for the allocation among nuclear suppliers of the contingent cost resulting from a covered incident that is not a Price-Anderson incident, taking into account risk factors such as—

(i) the nature and intended purpose of the goods and services supplied by each nuclear supplier to each covered installation *outside the United States*;

(ii) the quantity of the goods and services supplied by each nuclear supplier to each covered installation *outside the United States*;

(iii) the hazards associated with the supplied goods and services if the goods and services fail to achieve the intended purposes;

(iv) the hazards associated with the covered installation *outside the United States* to which the goods and services are supplied;

(v) the legal, regulatory, and financial infrastructure associated with the covered installation *outside the United States* to which the goods and services are supplied; and

(vi) the hazards associated with particular forms of transportation.

(B) FACTORS FOR CONSIDERATION.—In determining the formula, the Secretary may—

(i) exclude—

(I) goods and services with negligible risk;

(II) classes of goods and services not intended specifically for use in a nuclear installation;

(III) a nuclear supplier with a de minimis share of the contingent cost; and

(IV) a nuclear supplier no longer in existence for which there is no identifiable successor; and

(ii) establish the period on which the risk assessment is based.

(C) APPLICATION.—In applying the formula, the Secretary shall not consider any covered installation or transportation for which funds would be available under section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210).

(D) REPORT.—Not later than 5 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on whether there is a need for continuation or amendment of this Act, taking into account the effects of the implementation of the Convention on the United States nuclear industry and suppliers.

SEC. 7. REPORTING.

(a) COLLECTION OF INFORMATION.—

(1) IN GENERAL.—The Secretary may collect information necessary for developing and implementing the formula for calculating the deferred payment of a nuclear supplier under section 6(b).

(2) PROVISION OF INFORMATION.—Each nuclear supplier and other appropriate persons shall make available to the Secretary such information, reports, records, documents, and other data as the Secretary determines, by regulation, to be necessary or appropriate to develop and implement the formula under section 6(b)(3).

(b) PRIVATE INSURANCE.—The Secretary shall make available to nuclear suppliers, and insurers of nuclear suppliers, information to support the voluntary establishment and maintenance of private insurance against any risk for which nuclear suppliers may be required to pay deferred payments under this Act.

SEC. 8. EFFECT ON LIABILITY.

Nothing in any other law (including regulations) limits liability for a covered incident to an amount equal to less than the amount prescribed in paragraph 1(a) of Article IV of the Convention, unless the law—

(1) specifically refers to this Act; and

(2) explicitly repeals, alters, amends, modifies, impairs, displaces, or supersedes the effect of this section.

SEC. 9. PAYMENTS TO AND BY THE UNITED STATES.

(a) ACTION BY NUCLEAR SUPPLIERS.—

(1) NOTIFICATION.—In the case of a request for funds under Article VII of the Convention resulting from a covered incident that is not a Price-Anderson incident, the Secretary shall notify each nuclear supplier of the amount of the deferred payment required to be made by the nuclear supplier.

(2) PAYMENTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), not later than 60 days after receipt of a notification under paragraph (1), a nuclear supplier shall pay to the

general fund of the Treasury the deferred payment of the nuclear supplier required under paragraph (1).

(B) ANNUAL PAYMENTS.—A nuclear supplier may elect to prorate payment of the deferred payment required under paragraph (1) in 5 equal annual payments (including interest on the unpaid balance at the prime rate prevailing at the time the first payment is due).

(3) VOUCHERS.—A nuclear supplier shall submit payment certification vouchers to the Secretary of the Treasury in accordance with section 3325 of title 31, United States Code.

(b) USE OF FUNDS.—

(1) IN GENERAL.—Amounts paid into the Treasury under subsection (a) shall be available to the Secretary of the Treasury, without further appropriation and without fiscal year limitation, for the purpose of making the contributions of public funds required to be made by the United States under the Convention.

(2) ACTION BY SECRETARY OF TREASURY.—The Secretary of the Treasury shall pay the contribution required under the Convention to the court of competent jurisdiction under Article XIII of the Convention with respect to the applicable covered incident.

(c) FAILURE TO PAY.—If a nuclear supplier fails to make a payment required under this section, the Secretary may take appropriate action to recover from the nuclear supplier—

(1) the amount of the payment due from the nuclear supplier;

(2) any applicable interest on the payment; and

(3) a penalty of not more than twice the amount of the deferred payment due from the nuclear supplier.

SEC. 10. LIMITATION ON JUDICIAL REVIEW; CAUSE OF ACTION.

(a) LIMITATION ON JUDICIAL REVIEW.—

(1) IN GENERAL.—In any civil action arising under the Convention over which Article XIII of the Convention grants jurisdiction to the courts of the United States, any appeal or review by writ of mandamus or otherwise with respect to a nuclear incident that is not a Price-Anderson incident shall be in accordance with chapter 83 of title 28, United States Code, except that the appeal or review shall occur in the United States Court of Appeals for the District of Columbia Circuit.

(2) SUPREME COURT JURISDICTION.—Nothing in this subsection affects the jurisdiction of the Supreme Court of the United States under chapter 81 of title 28, United States Code.

(b) CAUSE OF ACTION.—

(1) IN GENERAL.—Subject to paragraph (2), in any civil action arising under the Convention over which Article XIII of the Convention grants jurisdiction to the courts of the United States, in addition to any other cause of action that may exist, an individual or entity shall have a cause of action against the operator to recover for nuclear damage suffered by the individual or entity.

(2) REQUIREMENT.—Paragraph (1) shall apply only if the individual or entity seeks a remedy for nuclear damage (as defined in Article I of the Convention) that was caused by a nuclear incident (as defined in Article I of the Convention) that is not a Price-Anderson incident.

(3) EFFECT OF SUBSECTION.—Nothing in this subsection limits, modifies, extinguishes, or otherwise affects any cause of action that would have existed in the absence of enactment of this subsection.

SEC. 11. RIGHT OF RECOURSE.

This Act does not provide to an operator of a covered installation any right of recourse under the Convention.

SEC. 12. PROTECTION OF SENSITIVE UNITED STATES INFORMATION.

Nothing in the Convention or this Act requires the disclosure of—

(1) any data that, at any time, was Restricted Data (as defined in section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014));

(2) information relating to intelligence sources or methods protected by section 102A(i) of the National Security Act of 1947 (50 U.S.C. 403–1(i)); or

(3) national security information classified under Executive Order 12958 (50 U.S.C. 435 note; relating to classified national security information) (or a successor regulation).

SEC. 13. REGULATIONS.

(a) IN GENERAL.—The Secretary or the Commission, as appropriate, may prescribe regulations to carry out section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) and this Act.

(b) REQUIREMENT.—Rules prescribed under this section shall ensure, to the maximum extent practicable, that—

(1) the implementation of section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) and this Act is consistent and equitable; and

(2) the financial and operational burden on a Commission licensee in complying with section 170 of that Act is not greater as a result of the enactment of this Act.

(c) APPLICABILITY OF PROVISION.—Section 553 of title 5, United States Code, shall apply with respect to the promulgation of regulations under this section.

(d) EFFECT OF SECTION.—The authority provided under this section is in addition to, and does not impair or otherwise affect, any other authority of the Secretary or the Commission to prescribe regulations.

SEC. 14. EFFECTIVE DATE.

This Act takes effect on the date on which the Convention enters into force for the United States under Article XX of the Convention.

Mr. FRIST. I ask unanimous consent that the amendment at the desk be agreed to, the committee-reported amendments as amended, if amended, be agreed to, the bill as amended be read a third time and passed, the motion to reconsider be laid on the table, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 5118) was agreed to, as follows:

(Purpose: To require the Secretary of Energy to submit periodic reports to Congress on whether there is a need for continuation or amendment of the Act)

On page 13, line 2, insert ''and every 5 years thereafter'' after ''Act''.

The committee amendments were agreed to.

The bill (S. 3879), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 3879

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Convention on Supplementary Compensation for Nuclear Damage Contingent Cost Allocation Act''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) (commonly known as the ''Price-Anderson Act'')—

(A) provides a predictable legal framework necessary for nuclear projects; and

(B) ensures prompt and equitable compensation in the event of a nuclear incident in the United States;

(2) section 170 of that Act, in effect, provides operators of nuclear powerplants with insurance for damage arising out of a nuclear incident and funds the insurance primarily through the assessment of a retrospective premium from each operator after the occurrence of a nuclear incident;

(3) the Convention on Supplementary Compensation for Nuclear Damage, done at Vienna on September 12, 1997, will establish a global system—

(A) to provide a predictable legal framework necessary for nuclear energy projects; and

(B) to ensure prompt and equitable compensation in the event of a nuclear incident;

(4) the Convention benefits United States nuclear suppliers that face potentially unlimited liability for a nuclear incidents outside the coverage of section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) by replacing a potentially open-ended liability with a predictable liability regime that, in effect, provides nuclear suppliers with insurance for damage arising out of such an incident;

(5) the Convention also benefits United States nuclear facility operators that may be publicly liable for a Price-Anderson incident by providing an additional early source for a Price-Anderson incident by providing an additional early source of funds to compensate damage arising out of the Price-Anderson incident;

(6) the combined operation of the Convention, section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210), and this Act will augment the quantity of assured funds available for victims in a wider variety of nuclear incidents while reducing the potential liability of United States suppliers without increasing potential costs to United States operators;

(7) the cost of those benefits is the obligation of the United States to contribute to the supplementary compensation fund established by the Convention;

(8) any such contribution should be funded in a manner that neither upsets settled expectations based on the liability regime established under section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) nor shifts to Federal taxpayers liability risks for nuclear incidents at foreign installations;

(9) with respect to a Price-Anderson incident, funds already available under section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) should be used; and

(10) with respect to a nuclear incident outside the United States not covered by section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210), a retrospective premium should be prorated among nuclear suppliers relieved from potential liability for which insurance is not available.

(b) PURPOSE.—The purpose of this Act is to allocate the contingent costs associated with participation by the United States in the international nuclear liability compensation system established by the Convention on Supplementary Compensation for Nuclear Damage, done at Vienna on September 12, 1997—

(1) with respect to a Price-Anderson incident, by using funds made available under section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) to cover the contingent costs in a manner that neither increases the burdens nor decreases the benefits under section 170 of that Act; and

(2) with respect to a covered incident outside the United States that is not a Price-

Anderson incident, by allocating the contingent costs equitably, on the basis of risk, among the class of nuclear suppliers relieved by the Convention from the risk of potential liability resulting from any covered incident outside the United States.

SEC. 3. DEFINITIONS.

In this Act:

(1) COMMISSION.—The term ''Commission'' means the Nuclear Regulatory Commission.

(2) CONTINGENT COST.—The term ''contingent cost'' means the cost to the United States in the event of a covered incident the amount of which is equal to the amount of funds the United States is obligated to make available under paragraph 1(b) of Article III of the Convention.

(3) CONVENTION.—The term ''Convention'' means the Convention on Supplementary Compensation for Nuclear Damage, done at Vienna on September 12, 1997.

(4) COVERED INCIDENT.—The term ''covered incident'' means a nuclear incident the occurrence of which results in a request for funds pursuant to Article VII of the Convention.

(5) COVERED INSTALLATION.—The term ''covered installation'' means a nuclear installation at which the occurrence of a nuclear incident could result in a request for funds under Article VII of the Convention.

(6) COVERED PERSON.—

(A) IN GENERAL.—The term ''covered person'' means—

(i) a United States person; and

(ii) an individual or entity (including an agency or instrumentality of a foreign country) that—

(I) is located in the United States; or

(II) carries out an activity in the United States.

(B) EXCLUSIONS.—The term ''covered person'' does not include—

(i) the United States; or

(ii) any agency or instrumentality of the United States.

(7) NUCLEAR SUPPLIER.—The term ''nuclear supplier'' means a covered person (or a successor in interest of a covered person) that—

(A) supplies facilities, equipment, fuel, services, or technology pertaining to the design, construction, operation, or decommissioning of a covered installation; or

(B) transports nuclear materials that could result in a covered incident.

(8) PRICE-ANDERSON INCIDENT.—The term ''Price-Anderson incident'' means a covered incident for which section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) would make funds available to compensate for public liability (as defined in section 11 of that Act (42 U.S.C. 2014)).

(9) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(10) UNITED STATES.—

(A) IN GENERAL.—The term ''United States'' has the meaning given the term in section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014).

(B) INCLUSIONS.—The term ''United States'' includes—

(i) the Commonwealth of Puerto Rico;

(ii) any other territory or possession of the United States;

(iii) the Canal Zone; and

(iv) the waters of the United States territorial sea under Presidential Proclamation Number 5928, dated December 27, 1988 (43 U.S.C. 1331 note).

(11) UNITED STATES PERSON.—The term ''United States person'' means—

(A) any individual who is a resident, national, or citizen of the United States (other than an individual residing outside of the United States and employed by a person who is not a United States person); and

(B) any corporation, partnership, association, joint stock company, business trust, unincorporated organization, or sole proprietorship that is organized under the laws of the United States.

SEC. 4. USE OF PRICE-ANDERSON FUNDS.

(a) IN GENERAL.—Funds made available under section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) shall be used to cover the contingent cost resulting from any Price-Anderson incident.

(b) EFFECT.—The use of funds pursuant to subsection (a) shall not reduce the limitation on public liability established under section 170 e. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(e)).

SEC. 5. EFFECT ON AMOUNT OF PUBLIC LIABILITY.

(a) IN GENERAL.—Funds made available to the United States under Article VII of the Convention with respect to a Price-Anderson incident shall be used to satisfy public liability resulting from the Price-Anderson incident.

(b) AMOUNT.—The amount of public liability allowable under section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) relating to a Price-Anderson incident under subsection (a) shall be increased by an amount equal to the difference between—

(1) the amount of funds made available for the Price-Anderson incident under Article VII of the Convention; and

(2) the amount of funds used under section 4 to cover the contingent cost resulting from the Price-Anderson incident.

SEC. 6. RETROSPECTIVE RISK POOLING PROGRAM.

(a) IN GENERAL.—Except as provided in subsection (b), each nuclear supplier shall participate in a retrospective risk pooling program in accordance with this Act to cover the contingent cost resulting from a covered incident outside the United States that is not a Price-Anderson incident.

(b) DEFERRED PAYMENT.—

(1) IN GENERAL.—The obligation of a nuclear supplier to participate in the retrospective risk pooling program shall be deferred until the United States is called on to provide funds pursuant to Article VII of the Convention with respect to a covered incident that is not a Price-Anderson incident.

(2) AMOUNT OF DEFERRED PAYMENT.—The amount of a deferred payment of a nuclear supplier under paragraph (1) shall be based on the risk-informed assessment formula determined under paragraph (3).

(3) RISK-INFORMED ASSESSMENT FORMULA.—

(A) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, and every 5 years thereafter, the Secretary shall, by regulation, determine the risk-informed assessment formula for the allocation among nuclear suppliers of the contingent cost resulting from a covered incident that is not a Price-Anderson incident, taking into account risk factors such as—

(i) the nature and intended purpose of the goods and services supplied by each nuclear supplier to each covered installation outside the United States;

(ii) the quantity of the goods and services supplied by each nuclear supplier to each covered installation outside the United States;

(iii) the hazards associated with the supplied goods and services if the goods and services fail to achieve the intended purposes;

(iv) the hazards associated with the covered installation outside the United States to which the goods and services are supplied;

(v) the legal, regulatory, and financial infrastructure associated with the covered installation outside the United States to which the goods and services are supplied; and

(vi) the hazards associated with particular forms of transportation.

(B) FACTORS FOR CONSIDERATION.—In determining the formula, the Secretary may—

(i) exclude—

(I) goods and services with negligible risk;

(II) classes of goods and services not intended specifically for use in a nuclear installation;

(III) a nuclear supplier with a de minimis share of the contingent cost; and

(IV) a nuclear supplier no longer in existence for which there is no identifiable successor; and

(ii) establish the period on which the risk assessment is based.

(C) APPLICATION.—In applying the formula, the Secretary shall not consider any covered installation or transportation for which funds would be available under section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210).

(D) REPORT.—Not later than 5 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on whether there is a need for continuation or amendment of this Act, taking into account the effects of the implementation of the Convention on the United States nuclear industry and suppliers.

SEC. 7. REPORTING.

(a) COLLECTION OF INFORMATION.—

(1) IN GENERAL.—The Secretary may collect information necessary for developing and implementing the formula for calculating the deferred payment of a nuclear supplier under section 6(b).

(2) PROVISION OF INFORMATION.—Each nuclear supplier and other appropriate persons shall make available to the Secretary such information, reports, records, documents, and other data as the Secretary determines, by regulation, to be necessary or appropriate to develop and implement the formula under section 6(b)(3).

(b) PRIVATE INSURANCE.—The Secretary shall make available to nuclear suppliers, and insurers of nuclear suppliers, information to support the voluntary establishment and maintenance of private insurance against any risk for which nuclear suppliers may be required to pay deferred payments under this Act.

SEC. 8. EFFECT ON LIABILITY.

Nothing in any other law (including regulations) limits liability for a covered incident to an amount equal to less than the amount prescribed in paragraph 1(a) of Article IV of the Convention, unless the law—

(1) specifically refers to this Act; and

(2) explicitly repeals, alters, amends, modifies, impairs, displaces, or supersedes the effect of this section.

SEC. 9. PAYMENTS TO AND BY THE UNITED STATES.

(a) ACTION BY NUCLEAR SUPPLIERS.—

(1) NOTIFICATION.—In the case of a request for funds under Article VII of the Convention resulting from a covered incident that is not a Price-Anderson incident, the Secretary shall notify each nuclear supplier of the amount of the deferred payment required to be made by the nuclear supplier.

(2) PAYMENTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), not later than 60 days after receipt of a notification under paragraph (1), a nuclear supplier shall pay to the general fund of the Treasury the deferred payment of the nuclear supplier required under paragraph (1).

(B) ANNUAL PAYMENTS.—A nuclear supplier may elect to prorate payment of the deferred payment required under paragraph (1) in 5 equal annual payments (including interest on the unpaid balance at the prime rate prevailing at the time the first payment is due).

(3) VOUCHERS.—A nuclear supplier shall submit payment certification vouchers to the Secretary of the Treasury in accordance with section 3325 of title 31, United States Code.

(b) USE OF FUNDS.—

(1) IN GENERAL.—Amounts paid into the Treasury under subsection (a) shall be available to the Secretary of the Treasury, without further appropriation and without fiscal year limitation, for the purpose of making the contributions of public funds required to be made by the United States under the Convention.

(2) ACTION BY SECRETARY OF TREASURY.—The Secretary of the Treasury shall pay the contribution required under the Convention to the court of competent jurisdiction under Article XIII of the Convention with respect to the applicable covered incident.

(c) FAILURE TO PAY.—If a nuclear supplier fails to make a payment required under this section, the Secretary may take appropriate action to recover from the nuclear supplier—

(1) the amount of the payment due from the nuclear supplier;

(2) any applicable interest on the payment; and

(3) a penalty of not more than twice the amount of the deferred payment due from the nuclear supplier.

SEC. 10. LIMITATION ON JUDICIAL REVIEW; CAUSE OF ACTION.

(a) LIMITATION ON JUDICIAL REVIEW.—

(1) IN GENERAL.—In any civil action arising under the Convention over which Article XIII of the Convention grants jurisdiction to the courts of the United States, any appeal or review by writ of mandamus or otherwise with respect to a nuclear incident that is not a Price-Anderson incident shall be in accordance with chapter 83 of title 28, United States Code, except that the appeal or review shall occur in the United States Court of Appeals for the District of Columbia Circuit.

(2) SUPREME COURT JURISDICTION.—Nothing in this subsection affects the jurisdiction of the Supreme Court of the United States under chapter 81 of title 28, United States Code.

(b) CAUSE OF ACTION.—

(1) IN GENERAL.—Subject to paragraph (2), in any civil action arising under the Convention over which Article XIII of the Convention grants jurisdiction to the courts of the United States, in addition to any other cause of action that may exist, an individual or entity shall have a cause of action against the operator to recover for nuclear damage suffered by the individual or entity.

(2) REQUIREMENT.—Paragraph (1) shall apply only if the individual or entity seeks a remedy for nuclear damage (as defined in Article I of the Convention) that was caused by a nuclear incident (as defined in Article I of the Convention) that is not a Price-Anderson incident.

(3) EFFECT OF SUBSECTION.—Nothing in this subsection limits, modifies, extinguishes, or otherwise affects any cause of action that would have existed in the absence of enactment of this subsection.

SEC. 11. RIGHT OF RECOURSE.

This Act does not provide to an operator of a covered installation any right of recourse under the Convention.

SEC. 12. PROTECTION OF SENSITIVE UNITED STATES INFORMATION.

Nothing in the Convention or this Act requires the disclosure of—

(1) any data that, at any time, was Restricted Data (as defined in section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014));

(2) information relating to intelligence sources or methods protected by section 102A(i) of the National Security Act of 1947 (50 U.S.C. 403–1(i)); or

(3) national security information classified under Executive Order 12958 (50 U.S.C. 435 note; relating to classified national security information) (or a successor regulation).

SEC. 13. REGULATIONS.

(a) IN GENERAL.—The Secretary or the Commission, as appropriate, may prescribe regulations to carry out section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) and this Act.

(b) REQUIREMENT.—Rules prescribed under this section shall ensure, to the maximum extent practicable, that—

(1) the implementation of section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) and this Act is consistent and equitable; and

(2) the financial and operational burden on a Commission licensee in complying with section 170 of that Act is not greater as a result of the enactment of this Act.

(c) APPLICABILITY OF PROVISION.—Section 553 of title 5, United States Code, shall apply with respect to the promulgation of regulations under this section.

(d) EFFECT OF SECTION.—The authority provided under this section is in addition to, and does not impair or otherwise affect, any other authority of the Secretary or the Commission to prescribe regulations.

SEC. 14. EFFECTIVE DATE.

This Act takes effect on the date on which the Convention enters into force for the United States under Article XX of the Convention.

JOHN MILTON BRYAN SIMPSON UNITED STATES COURTHOUSE

Mr. FRIST. Mr. President, I ask unanimous consent that the EPW Committee be discharged and the Senate immediately proceed to H.R. 315.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 315) to designate the United States Courthouse at 300 North Hogan Street, Jacksonville, FL as the ''John Milton Bryan Simpson United States Courthouse.''

There being no objection, the Senate proceeded to consider the bill.

The bill (H.R. 315), was ordered to a third reading, read the third time, and passed.

Mr. FRIST. Mr. President, I further ask unanimous consent that the Senate now proceed to the consideration of the following courthouse-naming bills, all en bloc. Calendar No. 649, H.R. 1463, H.R. 1556, H.R. 2322, H.R. 5026, H.R. 5546, H.R. 5606, H.R. 6051, Calendar No. 626, S. 3867.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the Senate proceeded to consider the bills en bloc.

JUSTIN W. WILLIAMS UNITED STATES ATTORNEY'S BUILDING

The bill (H.R. 1463), to designate a portion of the Federal building located at 2100 Jamieson Avenue, in Alexandria, Virginia, as the ''Justin W. Williams United States Attorney's Building'', was considered, ordered to a third reading, read the third time, and passed.

CLYDE S. CAHILL MEMORIAL PARK

A bill (H.R. 1556) to designate a parcel of land located on the site of the Thomas F. Eagleton United States Courthouse in St. Louis, Missouri, as the ''Clyde S. Cahill Memorial Park'' was considered, ordered to a third reading, read the third time, and passed.

KIKA DE LA GARZA FEDERAL BUILDING

A bill (H.R. 2322) to designate the Federal building located at 320 North Main Street in McAllen, Texas, as the ''Kika de la Garza Federal Building'' was considered, ordered to a third reading, read the third time, and passed.

ANDRES TORO BUILDING

A bill (H.R. 5026) to designate the Investigations Building of the Food and Drug Administration located at 466 Fernandez Juncos Avenue in San Juan, Puerto Rico, as the ''Andres Toro Building'' was considered, ordered to a third reading, read the third time, and passed.

CARROLL A. CAMPBELL, JR. UNITED STATES COURTHOUSE

A bill (H.R. 5546) to designate the United States courthouse to be constructed in Greenville, South Carolina, as the ''Carroll A. Campbell, Jr. United States Courthouse'' was considered, ordered to a third reading, read the third time, and passed.

WILLIAM M. STEIGER FEDERAL BUILDING AND UNITED STATES COURTHOUSE

A bill (H.R. 5606) to designate the Federal building and United States courthouse located at 221 and 211 West Ferguson Street in Tyler, Texas, as the ''William M. Steger Federal Building and United States Courthouse'' was considered, ordered to a third reading, read the third time, and passed.

JOHN F. SEIBERLING FEDERAL BUILDING AND UNITED STATES COURTHOUSE

A bill (H.R. 6051) to designate the Federal building and United States courthouse located at 2 South Main Street in Akron, Ohio, as the ''John F. Seiberling Federal Building and United States Courthouse'' was considered, ordered a third reading, read the third time, and passed.

RUSH H. LIMBAUGH, SR., FEDERAL COURTHOUSE

The bill (S. 3867), to designate the Federal courthouse located at 555 Independence Street, Cape Girardeau, Missouri, as the ''Rush H. Limbaugh, Sr., Federal Courthouse.''